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SUBJECT: CORRECTED COPY - KIRIBATI: RESETTLEMENT OF UIGHUR DETAINEES

REF:A) STATE 101742 (SEPTEMBER 2008)

B) SUVA 372 (SEPTEMBER 2008)

C) SUVA 453 (DECEMBER 2008)

Classified by Acting EAP A/S Glyn Davies for reasons 1.4(b) and (d).

#### SUMMARY

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¶1. (S) In November 2008, pursuant to instructions from the Department, Post initiated discussions with the Government of Kiribati (GoK) regarding the possible resettlement in Kiribati of up to 17 Uighur detainees from Guantanamo Bay (GTMO). GoK President Tong indicated a willingness to discuss the matter further. In December, the Department of Defense (DoD) completed an assessment of projects that could be provided to the GoK as part of an arrangement to resettle the Uighurs in Kiribati. The USG now seeks to finalize a resettlement framework with the GoK. Department accordingly requests that Post discuss with GoK officials at the highest appropriate level to review in detail the necessary assurances set forth in the diplomatic note at paragraph ten and obtain written confirmation from such officials that the GoK concurs in the understandings set forth in the note. End summary.

#### OBJECTIVES

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¶2. (C) The Department asks that Post pursue the following objectives:

-- Commence discussions immediately with GoK officials at the highest appropriate level to conclude an arrangement for the resettlement in Kiribati of the 17 Uighurs currently detained at GTMO.

-- Explain in detail the humane treatment assurances that the GoK is requested to provide to the USG before we can release the Uighur detainees to Kiribati for resettlement.

-- Explain that the USG recognizes the financial and political costs of this undertaking and that, if the Uighurs can be successfully resettled, the USG (1) will provide up to \$1.5 million dollars to offset the costs of resettlement, and (2) will provide up to \$3 million dollars in projects for Kiribati (note: some projects may take a number of years to complete) (see para 5).

-- Propose that once the resettlement framework is agreed upon, the USG will work closely with the GoK to identify and address key resettlement issues such as legal status, education, employment, housing, family relocation, language, religion, security implications, costs, and the DoD proposed projects.

-- Deliver the diplomatic note provided in paragraph ten and obtain written confirmation that the GoK concurs in the understandings set forth in the diplomatic note. The text of a proposed reply note that could be used for such confirmation is also provided at paragraph eleven.

#### REPORTING DEADLINE

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¶3. (U) Post should report the result of efforts by cable to S/WCI Ambassador Clint Williamson and EAP/ANP Deputy Director Steve Schwartz by December 12, 2008.

## BACKGROUND

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¶4. (S) In response to the Department's request to identify potential resettlement options for the 17 GTMO Uighurs, Post suggested that Kiribati might be willing to consider a proposal that included an adequate incentive package (See Reftels A and B). In November 2008, pursuant to instructions from the Department, Post initiated discussions with President Tong regarding possible Uighur resettlement. President Tong indicated that he was willing to discuss the matter further (See reftel C).

¶5. (C) In preparation for further discussions, DoD sent a PACOM team to Kiribati that identified incentives that DoD could provide as part of the resettlement proposal. DoD is willing to fund any combination of the following projects up to a total cost of \$3 million dollars:

-- Causeway Culverts: The lagoon side of Tarawa is prime fishing and swimming grounds, but is increasingly becoming septic due to poor drainage into the Pacific. Construction of causeway culverts would facilitate the flow of water from the lagoon into the Pacific, hence cleansing the lagoon. The estimated cost is \$1 million spread over a five year construction timeline of \$200,000 per year.

-- Desalinization Kits: These kits require little to no maintenance and would allow for rapid expansion of potable water throughout Kiribati. The estimated cost for 1,250 of these kits is \$500,000 (\$400 per kit).

-- Solar Lighting Stations: These are low tech, minimal maintenance stations, dramatically expanding the utility of community centers and athletic fields. The estimated cost for 1,500 stands is \$750,000 (\$500 per stand).

-- New Community Centers: Locally constructed facilities deteriorate after a few years. PACOM construction would use cement floors and 15 year roofs, significantly expanding the lifespan of the unit for the community. The estimated cost to build approximately 4-5 centers is \$750,000.

-- A housing unit for the Uighurs.

¶6. (SBU) The USG wants resettlement of the Uighurs in Kiribati to be as successful as possible. In order to ensure that resettlement issues are identified and addressed, the USG will work closely with GoK officials on key resettlement issues such as legal status, education, employment, housing, family relocation, language, and religion.

¶7. (SBU) Litigation of the Uighur cases continues in the federal courts. The District Court Judge's October 7th order to release the 17 Uighur detainees into the United States has been stayed pending appeal. The appellate court heard argument regarding the district court's authority to order release into the United States on November 24th. It is unclear when the appeals court might issue its decision. If the Uighurs are not transferred from GTMO, DoJ advises that the case will likely be appealed to the Supreme Court and there is a significant chance the Court would hear the case.

¶8. (SBU) Any effort to transfer the Uighurs in the interim, including resettlement in Kiribati, will require that advance notification be given to the Uighurs' lawyers. The USG has challenged this notice requirement on appeal in the federal appeals court, but a decision has not yet issued. Upon receiving notice, the Uighurs' attorneys will have an opportunity to seek an injunction in the District Court blocking the transfer. Although it is unclear what the District Court Judge would do if faced with a motion to enjoin transfer in the Uighur case, it is possible that the transfer could be enjoined, at least temporarily.

¶9. (S) The Governments of Australia (GoA) and New Zealand (GoNZ) are aware of our approach to Kiribati. The GoA is still considering a USG request to resettle the Uighurs (Note: Department believes that the GoA is contemplating the acceptance of only a few of the 17 Uighurs). While considering this request, the GoA sent a list of 20 questions regarding the Uighur detainees. DoD drafted a response to those questions that noted security risks associated with Uighur

detainees that were in Afghanistan in September 2001, which included the 17 GTMO Uighur detainees. In order to be fully transparent with the GoK, we should be prepared to present the DoD responses to them. In any event, the GoA is likely to share the information with the GoK. The Department will convey the DoD responses to the 20 questions by separate e-mail.

110. (SBU) TEXT OF EMBASSY'S DIPLOMATIC NOTE

BEGIN TEXT:

The Embassy of the United States of America presents its compliments to the Ministry of Foreign Affairs of the Government of Kiribati and has the honor to refer to discussions between the Governments of the United States of America and Kiribati held in Tarawa, Kiribati in November 2008, regarding seventeen ethnic Uighur detainees under the control of the U.S. Department of Defense.

As a result of these consultations, the United States and Kiribati have reached certain understandings, set forth below, that when confirmed by a diplomatic note from the Government of Kiribati will establish the basis for the Government of the United States to begin the process of releasing Uighur detainees who are held by the Department of Defense from the control of the Government of the United States to Kiribati for resettlement. The timing and modalities of any such release, including a point of contact in Kiribati to facilitate coordination of any release, and the person or persons to be released, as well as resolution of key resettlement issues, will be established through further consultations between the two Governments. Any person released by the Government of the United States to Kiribati pursuant to these understandings is referred to in this note as "a released person."

The Government of the United States requests written confirmation of the following understandings:

1A. The Government of Kiribati is to resettle a released person after the release has been completed. The Government of Kiribati is to treat a released person humanely and in accordance with the laws and international obligations of Kiribati, which include the UN Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.

1B. The Government of Kiribati will not subsequently transfer a released person to the custody and control of the Government of the People's Republic of China.

If the Government of Kiribati shares these understandings, the Embassy proposes that this note, together with the Ministry's reply to that effect, constitute a shared understanding reached between the two Governments.

The Embassy of the United States of America avails itself of this opportunity to renew to the Ministry of Foreign Affairs of the Government of Kiribati the assurances of its highest consideration.

END TEXT.

111. (SBU) TEXT OF PROPOSED GOK REPLY DIPLOMATIC NOTE:

BEGIN TEXT

The Ministry of Foreign Affairs of the Government of Kiribati presents its compliments to the Embassy of the United States of America in Suva, Fiji and has the honor to acknowledge receipt of the Embassy's note dated [insert date] relating to the release and resettlement in Kiribati of up to seventeen persons of Uighur ethnicity who are currently in the custody of the Government of the United States at the U.S. Naval facility at Guantanamo Bay, Cuba.

The Ministry confirms that the Government of Kiribati concurs in all the understandings set forth in the Embassy's note.

The Ministry of Foreign Affairs of Kiribati avails itself of this opportunity to renew to the Embassy of the United States of America the assurances of its highest consideration.

END TEXT.

POINT OF CONTACT

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¶12. (U) Please contact Anthony (Tony) P. Ricci at (202) 647-5543 or via e-mail for any additional background information or augmentation necessary to meet our objectives.

RICE